

Award No. 1117
Docket No. 1063
2-CB&Q-EW-'46

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Sidney St. F. Thaxter when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 95, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (ELECTRICAL WORKERS)**

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That Class C Lineman John Batt was entitled to fill Class B lineman vacancy during the period of Dec. 11 to 27, 1944, inclusive, at Graybull, Wyoming, and reimbursed for wage loss suffered due to the improper assignment of an employe without any seniority rights in the Telephone and Telegraph Department.

EMPLOYEES' STATEMENT OF FACTS:

- (1) Mr. H. N. Peterson the regularly assigned division lineman at Graybull, Wyoming, became ill and asked to be relieved.
- (2) John Batt, a Class C lineman, with a date as such of November 9, 1942, who was working with Installer H. W. Easley, requested that he be given this temporary vacancy until job was bulletined and man was assigned.
- (3) Management obtained a release for Mr. Max Levon, who was working on the rip-track in the car department at Sheridan, Wyoming, and assigned him to the vacancy.

POSITION OF EMPLOYEES: Paragraph C of Rule 15 reads as follows:

"Preference will be given senior qualified employes in the Telegraph and Telephone Department in filling non-bulletined positions with respect to location, etc. For the information of employes in the exercise of seniority on positions not bulletined, circular will be issued on the first of each month, to be posted in each outfit gang headquarters showing assignments by class and gangs. Copy will be furnished Local Chairman and General Chairman."

It is our position that for the time it would be necessary to fill Mr. Peterson's position before a bulletin could be issued and a man assigned under that bulletin that it very definitely comes within the provisions of this rule. Mr. Batt requested that he be given this position which was denied him.

There were no other employes of the telegraph department given consideration for this temporary position even though there were several available who afterwards were given Class B assignments under bulletins.

Attention is also directed to the second paragraph of the General Chairman's letter of March 8, 1945 (carrier's Exhibit No. 2) which reads:

"At the time the vacancy occurred, Mr. Batt was an employe of the company holding seniority as a Class C lineman, and was available and should have been assigned in accordance with paragraph C of Rule 15."

For the reasons stated in carrier's Exhibit No. 1, Lineman Batt, having no seniority as a Class B lineman, had absolutely no contractual right to the Class B vacancy. There are additional reasons why this claim as presented is manifestly untenable. More specifically, the vacancy for a Class B lineman was bulletined on November 30, 1944. The claim in behalf of Lineman Batt covers period December 11 to 27, 1944. Petitioner as indicated in foregoing quotation, places sole reliance in support of his contention upon the provisions of Rule 15(c) of the collective agreement. This rule reads:

"Preference to be given senior qualified employes in the Telegraph and Telephone Department in filling **non-bulletined** positions with respect to location, etc. For the information of employes in the exercise of seniority on positions **not bulletined** circular will be issued on the first of each month, to be posted in each outfit or gang headquarters showing assignments by class and gangs. Copy will be furnished Local Chairman and General Chairman."

(Emphasis ours.)

It will be seen, therefore, that petitioner admits that the position at Greynbull was bulletined on November 30, 1944, (see carrier's Exhibit No. 1) and at the same time relies upon a rule (Rule 15(c)) which by its own terms has no application to other than non-bulletined positions. In this respect see carrier's Exhibit No. 3.

This claim is so entirely devoid of merit, equity or even material substance it is difficult to understand how and why it was permitted to reach the docket of the Second Division.

FINDINGS: The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due notice of hearing thereon.

The claimant, a Class C lineman, made application for the temporary position in Class B which Class C Lineman W. A. Anderson claimed the right to fill permanently. See Docket 1060, Award 1114. No application was made for this temporary position by any Class B lineman and the claimant based his right to it on the ground that he was the senior Class C lineman applying for it. Award 1114, which holds that the carrier is not obliged to give preference in filling a vacancy in one class to the senior qualified employe in the next lower class, is controlling here. What was true in the case of the permanent position must likewise be true in the case of the temporary one.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: (Sgd.) J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 5th day of March, 1946.